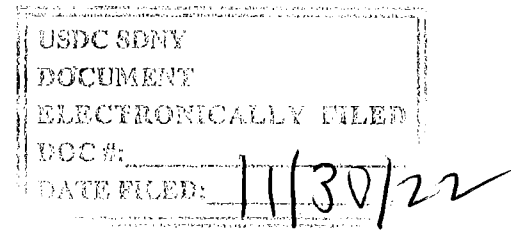


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MALCOLM PITT,

Plaintiff,

v.

 ROCKLAND COUNTY; SERGEANT
 OBLENIS; SERGEANT LOWE;
 CORRECTION OFFICER KARNEY;
 CORRECTION OFFICER G. VANDUNK;
 OFFICER FIGUEROA; OFFICER SPENCE,
 Defendants.
**AMENDED ORDER
OF SERVICE**

22 CV 8356 (VB)

 Copies Mailed/Taxed. 11/30/22
 Chambers of Vincent L. Briccetti *VA*

Plaintiff, who is incarcerated and proceeding pro se and in forma pauperis, commenced this action on September 29, 2022. (Doc. #2). Plaintiff's initial complaint asserted claims against defendants Rockland County (plaintiff initially identified Rockland County Jail, which was substituted in the Court's initial order of service, see Doc. #6), Sergeant Oblenis, Sergeant Lowe, Correction Officer Karney, Correction Officer G. Vandunk, Officer Figueroa, and Officer Dawson. (Doc. #2).

On October 20, 2022, the Court issued an Order of Service, directing the Clerk to issue summonses and deliver all documents necessary to effect service to the U.S. Marshals Service. (Doc. #6). On November 8, 2022, defendants Officer Figueroa, Correction Officer Karney, Sergeant Lowe, Sergeant Oblenis, and Officer Vandunk were served. (Docs. ##10–14). To date, proof of service for defendant Rockland County has not been filed.

On November 9, 2022, the Court received a letter from plaintiff requesting leave to file an amended complaint to add details, add a defendant, and remove a defendant. (Doc. #9). On November 14, 2022, the Court granted plaintiff's request to file a first amended complaint. (Doc. #15). The Court also stayed all defendants' time to answer, move, or otherwise respond to the complaint. (Id.)

On November 28, 2022, the Court received plaintiff's first amended complaint. (Doc. #16). The first amended complaint removes defendant Officer Dawson and adds defendant Officer Spence. (Id.)

Because plaintiff is proceeding in forma pauperis, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d 119, 123 n.6 (2d Cir. 2013). Thus, the Clerk is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285") for Officer Spence, and further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon this defendant.

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that summonses and the complaint be served within ninety days of the date the complaint is filed, plaintiff is proceeding in forma pauperis and could not have served summonses and the complaint until the Court reviewed the first amended complaint and ordered that a summons is issued. The Court therefore extends the time to serve until ninety days after the date a summons is issued. If the first amended complaint is not served within that time, plaintiff should request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012).

Accordingly, IT IS HEREBY ORDERED:

1. The Clerk is instructed to (i) add defendant Officer Spence to the docket; (ii) issue a summons for Officer Spence; (ii) complete the USM-285 form with the address for this defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.
2. The U.S. Marshals Service is instructed to serve Rockland County with the previously-issued summons and the first amended complaint, or file on the docket proof of prior service on Rockland County.
3. Plaintiff's Rule 4(m) deadline to serve the remaining defendants is extended to ninety days after the date a summons is issued for Officer Spence.
4. The named and previously-served defendants' time to answer, move, or otherwise respond to the first amended complaint is STAYED pending further Court Order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address listed on the docket.

Dated: November 30, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge

SERVICE ADDRESSES

1. County of Rockland
Office of the County Attorney
11 New Hempstead Rd
New City, NY 10956
2. Officer Spence
Rockland County Jail
53 New Hempstead Rd.
New City, NY 10956